

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CITY OF ECORSE,
Plaintiff,

CIVIL ACTION NO. 07-CV-12131

vs.

DISTRICT JUDGE JOHN CORBETT O'MEARA

UNITED STATES STEEL,
Defendant.

MAGISTRATE JUDGE MONA K. MAJZOUB

**ORDER DENYING DEFENDANT'S MOTION TO COMPEL DISCOVERY AND
STRIKING DOCUMENTS**

This matter comes before the Court on Defendant's Motion to Compel Discovery under Fed. R. Civ. P. 37(a) filed on September 5, 2007. (Docket no. 7). Defendant served its First Discovery Requests on Plaintiff on July 16, 2007. Plaintiff served a Response, including a document production, to Defendant's First Discovery Requests on September 5, 2007, the same day as Defendant filed its Motion to Compel Discovery. Defendant filed a Supplemental Brief in Support of Defendant's Motion to Compel Discovery on September 13, 2007 after being served with Plaintiff's Responses to the First Discovery Requests. (Docket no. 11). Plaintiff's Response Brief was due September 21, 2007. Plaintiff did not file a Response Brief until October 15, 2007. (Docket no. 17). Defendant filed a Reply. The Court heard oral argument on October 17, 2007. All pretrial matters have been referred to the undersigned for decision under 28 U.S.C. § 636(b)(1)(A). (Docket no. 8). The matter is ready for ruling.

Defendant's Supplemental Brief raises issues and alleged deficiencies in Plaintiff's Response and document production which were not raised in Defendant's Motion to Compel Discovery. Defendant did not seek leave of the Court pursuant to Fed. R. Civ. P. 15(d) to file its Supplemental Brief. Therefore the Supplemental Brief will be stricken from the docket. The issues raised in the Supplemental Brief are not properly before the Court and may be raised in a separate motion. Similarly,

Plaintiff's untimely Response in Opposition to Defendant's Supplemental Motion to Compel Discovery and Defendant's Reply will be stricken from the docket. (Docket nos. 17 and 18). Plaintiff's Response to Defendant's First Discovery Requests, although served late, resolved the issues raised in Defendant's Motion to Compel Discovery.

For these reasons, Defendant's Motion to Compel Discovery will be denied.

IT IS THEREFORE ORDERED that Defendant's Motion to Compel Discovery (docket no. 7) is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Supplemental Brief in Support of Defendant's Motion to Compel Discovery, docket no. 11, Plaintiff's Response in Opposition to Defendant's Supplemental Motion to Compel Discovery, docket no. 17 and Defendant's Reply to Plaintiff's Response, docket no. 18, are stricken from the record and this Order shall be put on the docket, and the docket edited to show that the documents have been **STRICKEN** and deemed not a part of the record in this case.

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: October 18, 2007

s/ Mona K. Majzoub
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Counsel of Record on this date.

Dated: October 18, 2007

s/ Lisa C. Bartlett
Courtroom Deputy

PROOF OF SERVICE

I hereby certify that a copy of this Order was served upon Counsel of Record on this date.

Dated: October __, 2007

Courtroom Deputy